

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FIRST NATIONAL BANK OF VALPARAISO,)	
and JAMES R. WRIGHT, as Co-Special)	
Administrators of the Estate of EARL H. EATON,)	
deceased,)	
)	
Plaintiff,)	
)	
v.)	08 CV 2034
)	JUDGE SHADUR
Q.S. of ILLINOIS, LLC, QUALITY SERVICES,)	
LLC, HUB GROUP, INC., and SAMPSON ADU)	
BOADI,)	
)	
Defendants.)	

MOTION FOR REMAND AND FOR COSTS

Plaintiffs, FIRST NATIONAL BANK OF VALPARAISO, and JAMES R. WRIGHT, as Co-Special Administrators of the Estate of EARL H. EATON, deceased (herein collectively "Eaton Estate"), by counsel **KENNETH J. ALLEN & ASSOCIATES, P.C.**, move this Court for an Order remanding this case to the Circuit Court of Cook County and for costs and attorney fees associated with the filing of this Motion. In support of his Motion, the Eaton Estate shows the Court the following:

1. On February 29, 2008, the Eaton Estate filed its Complaint against the defendants for damages and injuries sustained in an accident occurring in a motor vehicle collision on October 8, 2006.
2. On April 11, 2008, Defendants, Q.S OF ILLINOIS, LLC, QUALITY SERVICES,

LLC, and HUB GROUP, INC. filed their Notice of Removal in this Court which is defective on its face. Specifically, defendants each admit that their respective principal places of business is in the State of Illinois. (Notice of Removal, ¶¶ 1, 2, and 3). A corporation is a citizen of the state where it has its principal place of business. 28 U.S.C. § 1332(c).

3. 28 U.S.C. § 1441(b) prohibits resident defendants from removing cases in which federal jurisdiction is not based upon federal question jurisdiction:

Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties. Any other such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.

(Emphasis added).

4. Defendants, Q.S OF ILLINOIS, LLC, QUALITY SERVICES, LLC, and HUB GROUP, INC. did not properly join all defendants to the Notice of Removal or establish proof of consent. (Defendants' Notice of Removal.)

5. Q.S OF ILLINOIS, LLC, QUALITY SERVICES, LLC, and HUB GROUP, INC. have attempted to invoke this Court's jurisdiction in a case which was not removable in the first instance as made manifest from the face of the complaint and the plain language of the statute.

6. The Eaton Estate has been forced to file this Motion as a result of defendants' Q.S OF ILLINOIS, LLC, QUALITY SERVICES, LLC, and HUB GROUP, INC. failure to comply

with the unambiguous terms of the statute. Therefore, 28 U.S.C. § 1447(c) empowers this Court to award him “just costs and any actual expenses, including attorney fees, incurred as a result of the removal.”

7. Fees are warranted in this case since the Defendants’ attempt to remove can only be explained by an absolute failure to consult the relevant law governing removal.

WHEREFORE, FIRST NATIONAL BANK OF VALPARAISO, and JAMES R. WRIGHT, as Co-Special Administrators of the Estate of EARL H. EATON, deceased respectfully request that this Court enter an Order remanding this case to the Circuit Court of Cook County, for an award of costs and expenses, including attorney fees for Defendants’ improper attempt to remove this case, and for any and all other relief that the Court may deem proper under the circumstances.

Respectfully submitted,

KENNETH J. ALLEN & ASSOCIATES, P.C.
Attorneys for Plaintiffs

s/Bryan L. Bradley

Bryan L. Bradley

CERTIFICATE OF SERVICE

I certify that on the 14th day of April, 2008, service of a true and complete copy of the above and foregoing pleading or paper was made upon each party or their attorney of record herein by ECF electronic delivery.

s/Bryan L. Bradley

Bryan L. Bradley



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